

APPEAL NO. 022181
FILED OCTOBER 15, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 15, 2002. The hearing officer determined that the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the 4th quarter. The appellant (carrier) appeals, asserting that the hearing officer erred by not also making a determination that the claimant permanently lost entitlement to SIBs under section 408.146(c). The claimant did not file a response. The hearing officer's 4th quarter SIBs determination was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err by limiting her decision to the issue of entitlement to 4th quarter SIBs. The record shows that the carrier did not raise the issue of permanent loss of entitlement to SIBs at the benefit review conference (BRC) or in a response to the BRC report. Rather, the carrier sought to add the issue upon the presentation of its case at the hearing. The carrier argues that the issue of loss of entitlement is subsumed in the greater issue of entitlement to 4th quarter SIBs, citing language in Texas Workers' Compensation Commission Appeal No. 990897, decided June 9, 1999. In that case, the Appeals Panel reversed a hearing officer's determination of entitlement to 15th quarter SIBs and rendered a decision that the claimant was not entitled to 15th quarter SIBs, as a matter of law, because the claimant had previously lost entitlement to SIBs under Section 408.146(c). In the present case, it is not necessary to consider whether the claimant permanently lost entitlement to SIBs in order to resolve the issue of the claimant's entitlement to 4th quarter benefits. Accordingly, loss of entitlement to SIBs was not a subsumed issue, in this case, and the hearing officer did not err in declining to address it.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. Mc Shane
Appeals Judge